

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
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Robert J. [Signature]
CLERK - [Signature] PROCE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 00-M-375 LH

JOSE GUTIERREZ,

Defendant.

ORDER OF DISMISSAL

THIS MATTER came before the Court for hearing on November 30, 2000, on Defendant's Motion for Reconsideration by District Judge of Magistrate Judge's Denial of Defendant's Motion to Dismiss (Docket No. 20), filed August 10, 2000. The Court, having considered the pleadings submitted by the parties, the arguments of counsel, and otherwise being fully advised, and for the reasons stated on the record, finds that the motion is well taken and shall be **granted**. Accordingly, this case shall be **dismissed** for lack of jurisdiction.


As I stated on the record, the controlling case in this matter is *Alaska v. Native Village of Venetie Tribal Gov't*, which sets forth the federal set-aside and superintendency requirements for a finding of Indian Country status. 522 U.S. 520 (1998). While the land in question may at one time have been Indian Country, the Pueblo Lands Act of 1924 (43 Stat. 636) clearly and intentionally quieted title to the land in question against the Pueblo of Santa Clara. Consequently, the land in question no longer satisfies the federal set-aside requirement necessary for a finding of "Indian Country" and this Court cannot exercise subject matter jurisdiction in this case.

DEFENDANT'S
EXHIBIT

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IT IS, THEREFORE, ORDERED that Defendant's Motion for Reconsideration by District Judge of Magistrate Judge's Denial of Defendant's Motion to Dismiss (Docket No. 20), filed August 10, 2000, is **granted**.

IT IS FURTHER ORDERED that this case is **dismissed**.


UNITED STATES DISTRICT JUDGE